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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/166,625 10/05/98 MAY

D 1020-0501

EXAMINER

IM22/0621

MAGINOT ADDISON & MOORE
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE SUITE 3000
INDIANAPOLIS IN 46204

ART UNIT	PAPER NUMBER
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1771
DATE MAILED:

06/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/166,625

Applicant(s)
May

Examiner
Cheryl Juska

Group Art Unit
1771



☒ Responsive to communication(s) filed on Apr 5, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-17 is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-17 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Continued Prosecution Application

1. The request filed on April 5, 2000 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/166625 is acceptable and a CPA has been established. An action on the CPA follows.

Response to Amendment

2. Amendment C, submitted as a Preliminary Amendment with the CPA request on April 5, 2000, has been entered. The specification and claims 1, 9, 10, and 17 have been amended accordingly. The pending claims are 1-17, with claims 1 and 10 being independent.

3. Amendment C is sufficient to withdraw the objection to the specification, as set forth in section 3 of the Final Rejection Office Action (Paper No. 9). Additionally, Amendment C is sufficient to withdraw both 35 USC 112, 1st rejections, as set forth in sections 5 and 6 of the Final Rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,266,390 issued to Garland alone, or in view of US Patent 5,368,912 issued to Reaves, as set forth in the Final Rejection, section 8.

Said rejection is maintained despite Applicant's traversal and amendment. Applicant's amendment is directed to correcting 112 issues, rather than amending the claims to overcome the cited prior art. Applicant's arguments have been review carefully, but have not been found persuasive.

Applicant traverses said the rejection of said claims over Garland alone by asserting that said rejection is improper and requests documentary proof of said rejection. In response, pages 68-70, 88-89, and 136-138 of M.L. Joseph's *Introductory Textile Science* are submitted. Said pages support the Examiner's position of Official Notice that cotton and rayon fibers are known for the absorbent properties, especially when compared to polypropylene fibers. Joseph specifically teaches that polypropylene fibers have "practically no moisture absorbency or regain" (page 138, col. 1, 5th paragraph). Thus, the Examiner reasserts that Garland specifically and repeatedly teaches the importance of the nonwoven layer being absorbent. Thus, it would have been obvious to one of ordinary skill in the art to modify the Garland invention, wherein a cotton or rayon nonwoven is substituted for the polypropylene nonwoven layer. Motivation to do so would be to enhance the absorbent properties of the Garland invention.

In response to Applicant's argument that cotton and rayon fibers are inferior to polypropylene in many aspects, it is asserted that a major objective of Garland's is to have an

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absorbent nonwoven layer. Thus, the other properties of cotton and rayon which might be inferior to polypropylene are of a lesser importance in the objectives of Garland.

Alternatively, claims 1-17 were rejected as being obvious over Garland in view of Reaves. Applicant traverses said rejection by asserting that Reaves merely teaches woven cotton sheeting and not nonwoven layers. In response, it is asserted that Reaves disclosure of cotton sheeting is exemplary and not limiting in any sense. Reaves clearly teaches the use of films, wovens, or nonwovens for the inventive protective cover (col. 2, lines 52-65). Reaves also clearly teaches that natural or synthetic materials may be used, with cotton and polypropylene being the only two exemplary types. Thus, it is reasserted that Reaves teaches the equivalence of polypropylene and cotton fibers, whether woven or nonwoven, as suitable materials for a drapable protective cover.

For the reasons discussed above, the rejection of claims 1-17 over the cited Garland patent alone, or in view of the cited Reaves patent, is hereby maintained.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is (703) 305-4472. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached at (703) 308-2414. Fax numbers for this Group are (703) 305-3601 and (703) 305-7718.

cj

June 15, 2000


CHERYL JUSKA
PATENT EXAMINER